



**UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/367,712	01/03/95	AVIV	D 0492/0A214

DARBY & DARBY
805 THIRD AVENUE
NEW YORK NY 10022

26M2/0724

BRITTON EXAMINER	
ART UNIT	PAPER NUMBER
2615	# 4

DATE MAILED:

07/24/96

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.

08/367,712

Applicant(s)

D. G. AVIV

Examiner

Howard W. Britton

Group Art Unit

2615



☒ Responsive to communication(s) filed on 4-7, 26-95

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-4 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-3 is/are rejected.

☒ Claim(s) 4 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2615

1. The drawings are objected to because of reasons stated by the Official Draftsperson on PTO FORM 948, enclosed. Correction is required.

Applicant is required to submit a proposed drawing correction in response to this Office action. Any proposal by applicant for amendment of the drawings to cure defects must consist of two parts:

a) A separate letter to the Draftsperson in accordance with MPEP § 608.02(r); and

b) A print or pen-and-ink sketch showing changes in red ink in accordance with MPEP § 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office Action, and may not be deferred.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. **Correction of Informalities** -- 37 C.F.R. § 1.85; 1097 OG 36

IN APPLICATIONS FILED **BEFORE** JANUARY 1, 1989 OPTION (a) OR (b) MAY BE USED IN ORDER TO CORRECT ANY INFORMALITY IN THE DRAWING.

IN APPLICATIONS FILED **AFTER** JANUARY 1, 1989 ONLY OPTION (a) **MAY BE USED**.

AFTER JANUARY 1, 1991 ONLY OPTION (a) MAY BE USED REGARDLESS OF FILING DATE.

(a) File new drawings with the changes incorporated therein. The art unit number, serial number and number of drawing sheets should be written on the reverse side of the drawings. Applicant may delay filing of the new drawings

Art Unit: 2615

until receipt of the "Notice of Allowability" (PTOL-37). If delayed, the new drawing **MUST** be filed within the **THREE MONTH** shortened statutory period set for response in the "Notice of Allowability" (PTOL-37). Extensions of time may be obtained under the provisions of 37 C.F.R. § 1.136(a). The drawing should be filed as a separate paper with a transmittal letter addressed to the Official Draftsman.

(b) Request a commercial bonded drafting firm to make the necessary corrections. A bonded draftsman must be authorized, the corrections executed and the corrected drawings returned to the Office during the **THREE MONTH** shortened statutory period set for response in the "Notice of Allowability" (PTOL-37). Extensions of time may be obtained under the provisions of 37 C.F.R. § 1.136(a).

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the three month shortened statutory period set in the "Notice of Allowability" (PTOL-37). Within that three month period, two weeks should be allowed for review by the Office of the correction. If a correction is determined to be unacceptable by the Office, applicant must arrange to have an acceptable correction re-submitted within the original three month period to avoid the necessity of obtaining an extension of time and of paying the extension fee. Therefore, applicant should file corrected drawings as soon as possible.

Failure to take corrective action within the set (or extended) period will result in **ABANDONMENT** of the application.

2. Corrections other than Informalities Noted by Draftsman on the PTO-948.

All changes to the drawings, other than informalities noted by the Draftsman, **MUST** be made in the same manner as above except that, normally, a red ink sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Art Unit: 2615

2. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

3. Claim 1 is rejected under 35 U.S.C. § 103 as being unpatentable over BOYETTE (5,097,328). BOYETTE teaches a television surveillance system including a video camera (102 in Fig. 3), imaging arrays (312...) for sampling movements of

Art Unit: 2615

individuals for motion analysis to determine specific activity (col. 12, lines 40-51). The broadly claimed recitation of "criminal activity" cannot add patentability to an otherwise known system. It would have been obvious to anyone having ordinary skill in the image analysis art at the time the invention was made to "train" the system to recognize any desired known behavior patterns.

4. Claims 2 and 3 are rejected under 35 U.S.C. § 103 as being unpatentable over BOYETTE as applied to claim 1 above, and further in view of COUTTA (4,337,482). COUTTA shows (Fig. 5) that it was well known in the surveillance art to record both video and voices in a television surveillance situation, and anyone having ordinary skill in the art at the time the invention was made would have been so motivated to make a permanent record of images and voices.

5. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Howard W.

Serial Number: 08/367,712

-6-

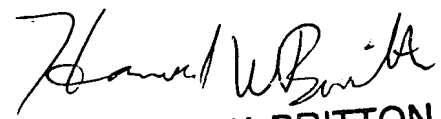
Art Unit: 2615

Britton whose telephone number is (703) 305-4724. The examiner can normally be reached on Monday through Friday from 8:30 to 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tommy Chin, can be reached on (703) 305-4715. The fax phone number for this Group is (703) 308-5399.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

07-19-96 hwb


HOWARD W. BRITTON
PRIMARY EXAMINER
ART UNIT 2615